IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2742 OF 2006

1. Mr Shyam Bhalchandra Nagarsekar
& Ors. .. Petitioners.
Vs.

The State of Maharashtra & Anr. .. Respondents.

Ms Shilpa A. Joshi, for the petitioners.
Mrs L.B.Makhijiani, for respondent no.2.
Mrs M.H.Mhatre, APP for the respondent-State.

CORAM : D.B.BHOSALE, J.
DATED : 2nd August, 2006

P.C.:

1. Heard learned counsel for the petitioners, the learned A.P.P for the respondent-State and the learned counsel for respondent no.2.

2. By this petition under section 482 of Cr.P.C, the petitioners-accused have prayed for quashing of the proceedings in Criminal Case No.413/P/2002 (CR No.455of 2000) pending before the 5th Metropolitan Magistrate's Court, Dadar, Mumbai. The petitioner no.1 is the husband of respondent no.2. The aforesaid case was filed at the instance of respondent no.2 under section 498-A of IPC. It appears that after filing of the complaint, respondent no.2 had also filed the proceedings for divorce before the Family Court, Bombay at Bandra. The divorce proceedings have been disposed of in terms of the consent terms by which a decree of divorce by mutual consent has been

passed. The petitioner-husband and the respondent-wife are present in the court. They state that they have acted upon the consent terms. Ms Makhijiani, learned counsel for the respondent-wife, states that the complainant does not wish to prosecute the complaint any further in view of the amicable settlement between the parties. She has also filed the affidavit to that effect. The affidavit of the respondent-wife is taken on record. I perused the petition and its annexures as also the affidavit filed by the respondent-wife. The Supreme Court in **B.S.Joshi and Anr. Vs. State of Haryana and Anr. 2003(4) SCC 675** in similar situation in paragraph 14 and 15 of the judgment held thus:

> "14. There is no doubt that the object of introducing Chapter XX-A containing section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of Indian Penal Code."
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> 15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and section 320 of the

Code does not limit or affect the powers under section 482 of the Code."

3. Keeping these observations in view and considering that the parties have amicably sorted out all the differences and settled the dispute and even the decree of divorce by mutual consent has also been passed and the parties have acted upon the consent terms, the proceedings in Criminal Case No.413/P/2001 (C.R.No.455 of 2000) pending before the Metropolitan Magistrate, Dadar, Mumbai are quashed. The petition is disposed of.

(D.B.Bhosale, J.)